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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,534	05/01/2001	Lev Novik	MS1-694US	4018
22801	7590	03/24/2006	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			BULLOCK JR, LEWIS ALEXANDER	
			ART UNIT	PAPER NUMBER
			2195	
DATE MAILED: 03/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/847,534	<b>Applicant(s)</b> NOVIK ET AL.	
	<b>Examiner</b> Lewis A. Bullock, Jr.	<b>Art Unit</b> 2195	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 22 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

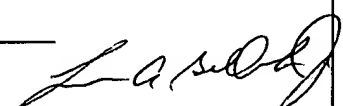
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 1-25, 27-31, 34, 35 and 37-43.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

  
**LEWIS A. BULLOCK, JR.**  
**PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are unpersuasive. Due to the time restrictions regarding after final responses, an interview could not be performed before a response is giving. Applicant has primarily two arguments: (1) the teaching of Nguyen does not teach an update consumer that updates the state of the associated state machine and (2) that the Examiner's correlation to the update consumer are not applied, i.e invoked, or registered. These arguments are unpersuasive. Regarding the first point, the claims allow for the update consumer to only be interpreted as an entity that can update the state of the state machine. Nguyen teaches that its state objects which is created from a base state class contains an action that executes a program or system command to perform a particular corrective action, such as alter the operation of a hardware or software component (col. 6, lines 25-35). The state machine which is defined as an agent would be considered a software component (col. 4, lines 4-8). Therefore, the state object would be considered a update consumer since it is capable of updating the state machine. Regarding the second point, Nguyen states that a transition condition may evaluate whether the measured parameter exceeds threshold, if truey then the current state becomes the state associated with the transition condition and upon moving to the transition state, the state action is executed (col. 4, lines 17-54). Therefore, the update consumer is would have to be registered with the transition condition, either pre-execution or otherwise, and invoked based upon the condition being true. If the action was never registered with the condition, it would not be capable of being invoked. As proper under M.P.E.P. 2111, the claims have been given the broadest possible interpretation consistent with the specification. Since there is no adverse limitation in the claims that would preclude the Examiner's interpretation from performing, the rejection to the claims are maintained.